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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION

10 RONALD J. MCINTOSH,

11 Petitioner,

12 v.

13 ERIC H. HOLDER and ATTORNEY  
14 GENERAL OF CALIFORNIA,

15 Respondents.

16 Case No. C 09-00750 CRB

17 **STATEMENT OF RECENT DECISIONS**

18 Pursuant to Civil Local Rule 7-3(d)(2), McIntosh provides the following citations to recently  
19 decided cases that concern issues raised in McIntosh's habeas petition:

20 1. The State argued that none of the impeachment evidence about Quartermain was  
21 *Brady* information because it was not admissible. Besides being wrong under California state law,  
22 the assertion has also recently been rejected by the Third Circuit in *Dennis v. Sec'y, Pennsylvania*  
23 *Dep't of Corr.*, No. 13-9003, 2016 WL 4440925, at \*34 (3d Cir. Aug. 23, 2016) ("Imposition of an  
24 admissibility requirement does not comport with the United States Supreme Court's longstanding  
25 recognition that impeachment evidence may be favorable and material, and if so, is unquestionably  
26 subject to *Brady* disclosure. The Court stated definitively in *Strickler* that '[o]ur cases make clear that  
27 *Brady*'s disclosure requirements extend to materials that, *whatever their other characteristics*, may be  
28 used to impeach a witness.'") (citation omitted).

1       2.     The State argued that McIntosh's petition is late, and also that there was no cause or  
2 prejudice for its alleged lateness, though it does not dispute that it did not disclose information about  
3 Quartermain, Younge, and Chandler was not provided until discovery in this case. In *Frost v.*  
4 *Gilbert*, No. 11-35114, 2016 WL 4501683, at \*4 (9th Cir. Aug. 29, 2016), the Ninth Circuit  
5 reaffirmed that a petitioner demonstrates cause for failing to raise *Brady* and *Napue* claims earlier  
6 when the state suppressed the relevant evidence: "No doubt, he would have presented allegations of  
7 *Brady* and *Napue* violations in that petition, had he been aware of the facts supporting those  
8 arguments."

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10 Dated: September 13, 2016

BOERSCH SHAPIRO LLP

11           /s/ David W. Shapiro  
12           David W. Shapiro

13           Attorney for Ronald J. McIntosh

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